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5 Honorable John C. Coughenour

6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON AT SEATTLE
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9 DEVELOPERS SURETY AND INDEMNITY
10 COMPANY, an Iowa corporation,

No. 2:16-cv-00051-JCC

11 Plaintiff,
12 vs.
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14 CORNELL'S QUALITY CONSTRUCTION,
15 INC., a Washington corporation, CORNELL
16 PETRISOR AND RODICA PETRISOR,
17 husband and wife,
18 Defendants.

**PLAINTIFF DEVELOPERS SURETY
AND INDEMNITY COMPANY'S
MOTION TO VACATE STATUS
CONFERENCE**

HEARING DATE: APRIL 15, 2016

19 Plaintiff Developers Surety and Indemnity Company ("DSI") respectively moves this
20 Court to vacate the Status Conference, currently scheduled for April 19, 2016 at 10:00 a.m.
21 DSI moves to vacate the status conference for the reasons set forth below.

22 DSI recently re-served the defendants with the Summons and Complaint on April 5,
23 2016 and April 7, 2016. *Exhibits 1-4 to the Declaration of Kenneth J. Cusack*. DSI originally
served the defendants on January 28, 2016 by serving Steven Jager, defendant's assigned
defense counsel in the underlying action against the defendants. Assigned defense counsel was
authorized to receive service of the Summons and Complaint. *Exhibits 5 and 6 to the*

Declaration of Kenneth J. Cusack.

On March 10, 2016, DSI contacted Mr. Jager to inquire if the defendants had retained coverage counsel and pointing out that defendants' Answer was past due. Mr. Jager advised that Linda Foreman may be coverage counsel. *Exhibit 7 to the Declaration of Kenneth J. Cusack*. DSI then contacted Ms. Foreman to inquire if she would be entering an appearance. The most recent communication from Ms. Foreman was on March 30, 2016, where Ms. Foreman advised that she had not heard from her clients regarding entering an appearance and filing an Answer. *Exhibits 8-10 to the Declaration of Kenneth J. Cusack*.

In reviewing DSI's original service of the Summons and Complaint on Mr. Jager, it appeared that the original Summons may be defective, in that it was not signed by the Clerk of Court. DSI therefore re-served a proper Summons and Complaint on the defendants on April 5, 2016 and April 7, 2010. If defendants fail to appear and answer within 21 days of the re-served Summons and Complaint, DSI will move for default. In the event defendants do appear and answer, DSI anticipates filing a summary judgment motion to determine coverage obligations, if any.

Since the time within which the defendants may answer DSI's re-served Summons and Complaint has not yet expired, and defendants have not yet appeared or answered, DSI respectively moves that the Status Conference scheduled for April 19, 2016 be vacated.

Dated this 13th day of April, 2016.

FORSBERG & UMLAUF, P.S.

Carl E. Forsberg, WSBA #17025
Kenneth J. Cusack, WSBA #17650
Attorneys for Plaintiff